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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 MICHAEL B. LIZAMA,)
10 v. Plaintiff,) 3:10-CV-0744-RCJ(WGC)
11 HOWARD D. SKOLNIK, *et al.*,)
12 Defendants.) **ORDER**
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14 Before the Court is the Report and Recommendation of the United States Magistrate Judge (#17)
15 (“Recommendation”) entered December 6, 2011, in which the Magistrate Judge recommends that this
16 Court grant in part, and deny in part, Defendants’ Motion to Dismiss (#8).

17 No objection to the Report and Recommendation has been filed.

18 **I. DISCUSSION**

19 This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations
20 made by the magistrate.” 28 U.S.C. § 636(b)(1). Further, under 28 U.S.C. § 636(b)(1), if a party makes
21 a timely objection to the magistrate judge’s recommendation, then this Court is required to “make a de
22 novo determination of those portions of the [report and recommendation] to which objection is made.”¹
23 Nevertheless, the statute does not “require[] some lesser review by [this Court] when no objections are
24 filed.” Thomas v. Arn, 474 U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not
25 required to conduct “any review at all . . . of any issue that is not the subject of an objection.” Id. at 149.
26 Similarly, the Ninth Circuit has recognized that a district court is not required to review a magistrate
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28 ¹ For an objection to be timely, a party must serve and file it within 10 days after being served
with the magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1)(C).

1 judge's report and recommendation where no objections have been filed. See United States v. Reyna-
2 Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court
3 when reviewing a report and recommendation to which no objections were made); see also Schmidt v.
4 Johnstone, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in Reyna-
5 Tapia as adopting the view that district courts are not required to review "any issue that is not the subject
6 of an objection."). Thus, if there is no objection to a magistrate judge's recommendation, then this Court
7 may accept the recommendation without review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting,
8 without review, a magistrate judge's recommendation to which no objection was filed).

9 In this case, there have been no objections filed to the Magistrate Judge's Report and
10 Recommendation. Although no objection was filed, this Court has reviewed the Report and
11 Recommendation (#17) and accepts it. Accordingly,

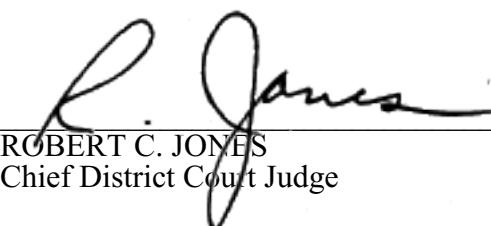
12 IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (#8) is GRANTED IN PART
13 and DENIED IN PART as follows:

14 1. INSOFAR as Defendants move to dismiss Plaintiff's official capacity claims for damages,
15 the motion is GRANTED.

16 2. INSOFAR as Defendants move to dismiss the First Amended Complaint for failure to
17 exhaust administrative remedies, the motion is DENIED.

18 IT IS SO ORDERED.

19 DATED: This 31st day of January, 2012.

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23 ROBERT C. JONES
24 Chief District Court Judge
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